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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,846	09/29/2003	Mark Bernard Hettish	2003P08062US	3718

7590 03/23/2006

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

PADMANABHAN, KAVITA

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,846

Applicant(s)

HETTISH, MARK BERNARD

Examiner

Kavita Padmanabhan

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/29/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-16 are pending.
2. Claims 1-16 are rejected.

Information Disclosure Statement

3. The following items on the information disclosure statement filed 9/29/03 have not been considered as to their merits because the document numbers do not match the listed applicant name: Cite No. I and K.

Specification

4. The abstract of the disclosure is objected to because it contains only 20 words and does not sufficiently describe the disclosure. It is suggested that the abstract be modified to include between 50-150 words. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

It is suggested that the repeated word "that" be removed at page 7, line 16.

Appropriate correction is required. The citations above are not meant to be exhaustive, and are provided as examples. The applicant is advised to correct other similar errors as required throughout the specification.

Claim Objections

6. **Claims 6 and 8** are objected to because of the following informalities:

Claim 6 appears to depend from itself. It is assumed that the claim is intended to depend from claim 5 for the purposes of this Office Action.

The semicolon at the end of **claim 8** should be changed to a period.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 5-6, 9, 11, and 13** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said availability" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is assumed for the remainder of this Office Action that this limitation is intended to recite --said true availability--.

Claim 5 also recites the limitation "said interface" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is assumed for the remainder of this Office Action that this limitation is intended to recite --said identity--.

Claim 9 recites the limitation "said availability" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is assumed for the remainder of this Office Action that this limitation is intended to recite --said true availability--.

Claim 11 recites the limitation "said availability" in lines 1-2 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is assumed for the remainder of this Office Action that this limitation is intended to recite --said true availability--.

Claim 13 recites the limitation "said availability" in lines 1-2 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is assumed for the

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remainder of this Office Action that this limitation is intended to recite --said true availability--.

The examiner will apply prior art to this claim as best understood in light of the above rejection.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. **Claim 14** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a test of whether the invention is categorized as a process, machine, manufacture or composition of matter and if the invention produces a useful, concrete and tangible result. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must produce a useful, concrete and tangible result.

In the instant case, **claim 14** recites a system, but the system claimed does not appear to contain components that define the physical structure of the system. The claim recites context agent, but it appears that this could consist purely of software, which is not statutory.

The examiner will apply prior art to these claims as best understood, with the assumption that applicant will amend to overcome the stated 101 rejections.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. **Claims 1-16** are rejected under 35 U.S.C. 102(b) as being anticipated by **Diacakis et al.** (US 2002/0116336, hereinafter “Diacakis”).

In regards to **claim 1**, **Diacakis** teaches a method, comprising the steps of:

- determining an availability rule associated with an identity (**Diacakis; par [0031]**);
- determining a true availability of said identity based at least in part on said availability rule (**Diacakis; par [0034] – par [0035]**); and

- providing data indicative of said true availability of said identity (**Diacakis; par [0035]**).

In regards to **claim 2**, **Diacakis** teaches the method of claim 1, further comprising the step of:

- receiving a request for information regarding true availability of said identity (**Diacakis; par [0029] – par [0030]**).

In regards to **claim 3**, **Diacakis** teaches the method of claim 1, wherein said step of determining said true availability of said identity based at least in part on said availability rule includes determining availability of said identity via at least two different media channels (**Diacakis; par [0031], lines 21-25; par [0035]; par [0038]; par [0040]; par [0043] – par [0044]**).

In regards to **claim 4**, **Diacakis** teaches the method of claim 1, further comprising the step of:

- establishing said availability rule (**Diacakis; par [0031]**).

In regards to **claim 5**, **Diacakis** teaches the method of claim 1, wherein said step of providing data indicative of said availability of said interface includes displaying an interface indicative of said availability (**Diacakis; par [0056]; Fig. 8**).

In regards to **claim 6**, **Diacakis** teaches the method of claim 6, wherein said interface identifies said identity (**Diacakis; par [0056]; Fig. 8**).

In regards to **claim 7**, **Diacakis** teaches the method of claim 1, further comprising the step of:

- determining said identity (**Diacakis; par [0038]; par [0056]; Fig. 8**).

In regards to **claim 8**, **Diacakis** teaches the method of claim 1, further comprising the step of:

- determining a device context for a device associated with said identity (**Diacakis; par [0038]; par [0040]; par [0043] – par [0044]; par [0056]; Fig. 8**).

In regards to **claim 9**, **Diacakis** teaches the method of claim 8, wherein said step of determining said availability of said identity based at least in part on said availability rule includes determining an availability of said identity based at least in part on said availability rule and said device context (**Diacakis; par [0038]; par [0040]; par [0043] – par [0044]; par [0056]; Fig. 8**).

In regards to **claim 10**, **Diacakis** teaches the method of claim 8, further comprising the step of:

- determining an identity context for said identity (**Diacakis; par [0056]; par [0059]; Fig. 8**).

In regards to **claim 11**, **Diacakis** teaches the method of claim 10, wherein said step of determining said availability of said identity based at least in part on said availability rule includes determining an availability of said identity based at least in part on said availability rule, said device context, and said identity context (**Diacakis; par [0038]; par [0040]; par [0043] – par [0044]; par [0056]; [0059]; Fig. 8**).

In regards to **claim 12**, **Diacakis** teaches the method of claim 1, further comprising the step of:

- determining an identity context for said identity (**Diacakis; par [0056]; par [0059]; Fig. 8**).

In regards to **claim 13**, **Diacakis** teaches the method of claim 12, wherein said step of determining said availability of said identity based at least in part on said availability rule includes determining an availability of said identity based at least in part on said availability rule and said identity context (**Diacakis; par [0038]; par [0040]; par [0043] – par [0044]; par [0056]; [0059]; Fig. 8**).

Claims 14, 15, and 16 are each rejected with the same rationale given for claim 1.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kavita Padmanabhan** whose telephone number is **571-272-8352**. The examiner can normally be reached on Monday-Friday, 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kavita Padmanabhan
Assistant Examiner
AU 2161

March 15, 2006

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PRIMARY EXAMINER